



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

ELP

Docket No. 4395-98
27 September 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C.1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, applied to this Board requesting, in effect, that his naval record be corrected to show a more favorable type of discharge than the general discharge issued on 6 July 1973.

2. The Board, consisting of Ms. Nofziger, Ms. Hardbower, and Mr. Patton, reviewed Petitioner's allegations of error and injustice on 22 September 1999, and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application to the Board was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Navy on 24 April 1972 for three years at age 18. At the time of his enlistment, he had completed seven years of formal education and attained test scores which placed him in mental group III.

d. Petitioner's record reflects that he was advanced to SA (E-2) and served without incident until 1 March 1973 when he received an adverse performance evaluation. Adverse marks of 2.8 were assigned in the rating categories of "military behavior and adaptability", a mark of 2.6 in "appearance", and a mark of 2.0 in "performance." The reporting senior stated that Petitioner appeared to lack mental development. He was seldom on station at the proper time and had been placed on report several times for various reasons. His division officer discovered that the majority of these minor offenses came about because Petitioner really did not understand what was required of him. The reporting senior opined that Petitioner was not considered a "rotten apple", but simply had not been able to grow as an individual.

e. On 17 May 1973, Petitioner voluntarily agreed to accept a general discharge for the convenience of the government. Thereafter, the commanding officer requested Petitioner's selective early release. He described him as an unresponsive and passive individual who seemed unable to comprehend the simplest of instructions and required constant supervision to complete the most menial of daily tasks. He opined that Petitioner's lack of accomplishment was due to his inability to adapt rather than a negative attitude, and that passiveness and inability to follow instructions made him a burden to the command.

f. On 25 June 1974, the Chief of Naval Personnel directed separation by reason of convenience of the government due to early separation under an authorized program or circumstance with the type of discharge warranted by the service record. Petitioner received a general discharge on 6 July 1973.

g. Character of service is based, in part, on military behavior and overall traits averages which are computed from marks assigned during periodic evaluations. Petitioner's military behavior and overall traits averages were 2.8 and 2.5, respectively. The minimum average marks required for a fully honorable characterization at the time of Petitioner's discharge were 3.0 in military behavior and 2.7 in overall traits

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. In this regard, the Board notes Petitioner's youth and immaturity, limited education, and lack of any disciplinary actions during his 14 months of service. The Board further notes the evidence which clearly indicates Petitioner's service was impaired by his inability to comprehend instructions and adapt. It appears to the Board that he wanted to serve well but could not due to his inadequacy. Therefore, the Board believes that his general discharge serves no other purpose other than to unjustly stigmatize his service. Although his discharge was properly characterized in accordance with regulatory guidance, the Board concludes that it would be appropriate and just to recharacterize his service as fully honorable as an exception to policy.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued an honorable discharge by reason of "Early Separation Under an Authorized Program or Circumstance" on 6 July 1973 vice the general discharge actually issued on that date. This should include the issuance of a new DD Form 214.

b. That no further relief be granted.

c. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

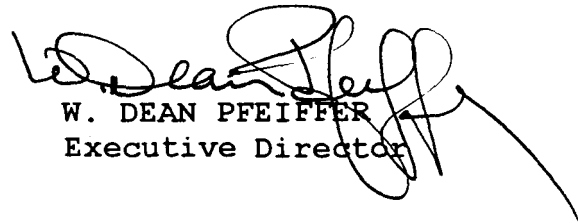
d. That, upon request, the Department of Veterans Affairs be informed that Petitioner's application was received by the Board on 2 June 1998.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6 (e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6 (e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director